

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE FOR

SENATE BILL NO. 1023

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Offered April 26, 2004.

Senate Substitute adopted, April 26, 2004.

Taken up for Perfection, April 26, 2004. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

3816S.02P

AN ACT

To repeal section 570.300, RSMo, and to enact in lieu thereof two new sections relating to the criminal use of audiovisual recording devices, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 570.300, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 570.300 and 578.500, to read as follows:

570.300. 1. A person commits the crime of theft of cable television service if he:

(1) Knowingly obtains or attempts to obtain cable television service without paying all lawful compensation to the operator of such service, by means of artifice, trick, deception or device; or

(2) Knowingly assists another person in obtaining or attempting to obtain cable television service without paying all lawful compensation to the operator of such service; or

(3) Knowingly connects to, tampers with or otherwise interferes with any cables, wires or other devices used for the distribution of cable television if the effect of such action is to obtain cable television without paying all lawful compensation therefor; or

(4) Knowingly sells, uses, manufactures, rents or offers for sale, rental or use any device, plan or kit designed and intended to obtain cable television service in violation of this section; or

(5) Knowingly attempts to connect to, tamper with, or otherwise interfere with any cable television signal, cables, wires, devices, or equipment, which is used for the distribution of cable television and which results in the unauthorized use of a cable television system or the disruption of the delivery of the cable television service.

2. Theft of cable television service is a class C felony if the value of the service appropriated is five hundred dollars or more **or if the theft is a violation of subdivision (5) of subsection 1 of this section**; otherwise theft of cable television services is a class A misdemeanor.

3. Any cable television operator may bring an action to enjoin and restrain any violation of the provisions of this section or bring an action for conversion. In addition to any actual damages, an operator may be entitled to punitive damages and reasonable attorney fees in any case in which the court finds that the violation was committed willfully and for purposes of commercial advantage. In the event of a defendant's verdict the defendant may be entitled to reasonable attorney fees.

4. The existence on the property and in the actual possession of the accused of any connection wire, or conductor, which is connected in such a manner as to permit the use of cable television service without the same being reported for payment to and specifically authorized by the operator of the cable television service shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that the accused has committed the crime of theft of cable television service.

5. If a cable television company either:

(1) Provides unsolicited cable television service; or

(2) Fails to change or disconnect cable television service within ten days after receiving written notice to do so by the customer, the customer may deem such service to be a gift without any obligation to the cable television company from ten days after such written notice is received until the service is changed or disconnected.

6. Nothing in this section shall be construed to render unlawful or prohibit an individual or other legal entity from owning or operating a video cassette recorder or devices commonly known as a "satellite receiving dish" for the purpose of receiving and utilizing satellite-relayed television signals for his own use.

7. As used in this section, the term "cable television service" includes microwave television transmission from a multipoint distribution service not capable of reception by conventional television receivers without the use of special equipment.

578.500. 1. Any person, while a motion picture is being exhibited, who knowingly operates an audiovisual recording function of a device in a motion picture theater without the consent of the owner or lessee of the motion picture theater shall be guilty of criminal use of real property.

2. As used in this section, the term "audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part thereof by means of any technology now known or later developed.

3. As used in this section, the term "motion picture theater" means a movie theater, screening room, or other venue that is being utilized primarily for the

exhibition of a motion picture at the time of the offense, but excluding the lobby, entrance, or other areas of the building where a motion picture cannot be viewed.

4. The provisions of this section shall not prevent any lawfully authorized investigative, law enforcement protective, or intelligence gathering employee or agent, of the state or federal government, from operating any audiovisual recording device in any facility where a motion picture is being exhibited, as part of lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities.

5. Any person who has pled guilty to or been found guilty of violating the provisions of this section shall be guilty of a class A misdemeanor, unless the person has previously pled guilty or been found guilty of violating the provisions of this section, in which case it is a class D felony.

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